

REMARKS

Claims 20 and 21 are currently pending in the present application with claims 23 – 42 being withdrawn.

In the Office Action, claims 20 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over Zucholl DE 100 39 408 in view of WO 00/32864 to Mourad.

The Claimed Invention

An exemplary embodiment of the present invention, as recited by, for example, independent claim 20 of the present application, is directed to a method for treating objects with at least one treatment agent in a household device. The method includes the step of operating a first part of an identification system to identify data of a second part of the identification system, wherein the data of the second part of the identification system comprises information on a dosing device operable to dose the treatment agent and the data of the second part of the identification system is associated with a packaging for the dosing device. The method recited in claim 20 of the present application also includes the step of adapting one of a treatment of objects by the household device based upon the identified data and a dosing of the treatment agent based upon the identified data.

Conventional dishwashers and washing machines (household devices for treating objects) dispense a treatment agent merely upon a predetermined position within a treatment cycle and/or upon reaching a predetermined condition inside the device. These devices suffer from several problems. For instance, these devices do not ensure that conditions within the device are advantageous after the treatment agent is released. Therefore, the treatment agent may become inefficient for lack of appropriate conditions within the device.

Further, these devices are not capable of providing a dosage of the treatment agent which would provide for best efficiency of the agent. Rather, these devices

typically release all of the agent or a predetermined amount of agent. Therefore, the dosage of the agent is not adapted to make the agent more efficient.

The present invention provides a method that controls the treatment of the objects to optimize ambient conditions for dispensing the treatment agent from the dosing device at a predetermined time based upon the first data and the second data or a program controller that controls the time of dispensing of the treatment agent from the dosing device during the treatment of the objects to optimize the effectiveness of the treatment agent based upon the first data and the second data. In this manner, the inventive method improves the efficiency of the treatment agent.

The Rejection of Claims 20 and 21 Under 35 U.S.C. §103(a) as Being Unpatentable Over Zucholl DE 100 39 408 in View of WO 00/32864 to Mourad

With respect to the rejection of claims 20 and 21 under 35 U.S.C. §103(a), favorable reconsideration is respectfully requested in view of the following comments.

The Office Action asserts that Zucholl DE '408 teaches a method for treating objects with at least one treatment agent in a household device comprising operating a bar code reader, computer, and controller, or, in other words, a first part of an identification system, to identify data of a second part of the identification system. The Office Action notes, however, that Zucholl DE '408 does not explicitly teach the data of the second part of the identification system comprises information on a dosing device. Nonetheless, according to a further assertion of the Office Action, WO 00/32864 to Mourad teaches a method of controlling a washing machine and discloses operating a washing machine control unit to identify data of an external datum carrier or, in other words, a second part of the identification system, that comprises information on a dosing device.

According to the Office Action, it would have been obvious to one of ordinary skill in the art at the time of the invention to include information on a dosing device operable to dose the treatment agent as per the method of WO 00/32864 to Mourad in the

respective method of Zucholl DE '408 in order to reduce the need for detergent producers to be concerned with the characteristics of dosing devices. Moreover, according to Page 4 of the Office Action, "the skilled artisan would have found it obvious to that the information be associated with the packaging of the dosing device to enhance operator and bar code reading of the information."

However, the Office Action fails to provide any explanation as to why a skilled artisan would have found it obvious to associate information concerning a dosing device with the packaging of the dosing device. It is clear that none of the prior art hints at, suggests, or discloses such an approach. In spite of the assertion in the Office Action, WO 00/32864 to Mourad does not appear to hint at or suggest such an approach, let alone disclose such an approach. The Office Action, on Page 5, quotes the EPO machine translation of WO 00/32864 to Mourad as follows: "By this 'division of responsibilities' the washing machine manufacturer does not have to be concerned with characteristics of the detergent, turned around the detergent producer not with characteristics of dosing devices." However, this quoted statement does not provide any hint or suggestion that a washing machine manufacturer would be taught to associate information concerning a dosing device with the packaging of the dosing device. The present application discloses, in contrast, that a chip card 6', for example, can be loosely appended to a dosing device 5 so that the chip card 6' can be inserted into a chip card reader 2'. Also, the present application notes that a dosing device can be configured such that it can be inserted into a household device for treating object with the dosing device comprising the second part of the identification system. This feature of the present application is comprised in the method recited in claim 20 of the present application, wherein "the step of operating ..., wherein the data of the second part of the identification system comprises information on a dosing device ... and the data of the second part of the identification system is associated with a packaging for the dosing device..."

A critical step in analyzing the patentability of claims pursuant to 35 U.S.C. § 103 is casting the mind back to the time of invention, to consider the thinking of one of ordinary skill in the art, guided only by the prior art references and the then-accepted

wisdom in the field. See, *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). Close adherence to this methodology is especially important in cases where the very ease with which the invention can be understood may prompt one "to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher." *Id.*, (quoting *W.L. Gore & Assocs. Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1553, 220 USPQ 303, 313 (Fed. Cir. 1983)).

Most if not all inventions arise from a combination of old elements. See, *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457 (Fed. Cir. 1998). Thus, every element of a claimed invention may often be found in the prior art. See, *id.* However, identification in the prior art of each individual part claimed is insufficient to defeat patentability of the whole claimed invention. See, *id.* Rather, to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion, or teaching of the desirability of making the specific combination that was made by the patent applicant. See, *In re Dance*, 160 F.3d 1339, 1343, 48 USPQ2d 163.5, 1637 (Fed. Cir. 1998); *In re Gordon*, 733 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984).

The motivation, suggestion, or teaching may come explicitly from statements in the prior art, the knowledge of one of ordinary skill in the art, or, in some cases the nature of the problem to be solved. See, *Dembiczak*, 175 F.3d at 999, 50 USPQ2d at 1617. In addition, the teaching, motivation, or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references. See, *WMS Gaming, Inc. v. International Game Tech.*, 184 F.3d 1339, 1355, 51 USPQ2d 1385, 1397 (Fed. Cir. 1999). The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art. See, *In re Keller*, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981) (and cases cited therein). Whether an examiner relies on an express or an implicit showing, the Examiner must provide particular findings related thereto. See, *Dembiczak*, 175 F.3d at 999, 50 USPQ2d at 1617. Broad conclusory statements standing alone are not "evidence." *Id.* When an examiner relies on general knowledge to negate patentability, that knowledge must be

articulated and placed on the record. *See, In re Lee*, 277 F-3d 1338, 1342-45, 61 USPQ2d 1430, 1433-35 (Fed. Cir. 2002).

WO 00/32864 to Mourad, it is submitted, does not teach or disclose to one of skill in the art to associate information concerning a dosing device with the packaging of the dosing device in any way, let alone to associate information concerning a dosing device with the packaging of the dosing device in a manner such that, in accordance with the present invention, a first part of an identification system identifies data of a second part of the identification system, wherein this data is associated with a packaging of the dosing device. Furthermore, the Office Action concedes that Zucholl DE '408 does not teach that data of a second part of an identification system comprises information on a dosing device, let alone teach that data of a second part of an identification system comprises information on a packaging of a dosing device. Thus, neither Zucholl DE '408 nor WO 00/32864 to Mourad suggests or supports the respective combination as asserted in the Office Action and it is respectfully believed that the evidence adduced is insufficient to establish a *prima facie* case of obviousness with respect to claims 20 and 21 of the present application.

Moreover, even if one of ordinary skill in the art were taught to selectively modify the respective method of Zucholl DE '408 with select steps of the method of WO 00/32864 to Mourad, which Applicant submits is not the case, modifying the respective method of Zucholl DE '408 with select steps of the method of WO 00/32864 to Mourad would result in a method that still falls short of the method recited in claims 20 and 21 of the present invention. The reason for the shortfall of the proposed modified method of Zucholl DE '408 is that neither Zucholl DE '408 nor WO 00/32864 to Mourad teaches or discloses the steps of the method for treating objects with at least one treatment agent in a household device recited in claims 20 and 21 of the present invention. For example, it can be seen that Zucholl DE '408 merely discloses a computer that controls the machine to provide an amount of product based upon product bar code reading. Zucholl DE '408 does not teach or suggest any approach concerning dosing device data at all. WO 00/32864 to Mourad is of no help in overcoming the shortcomings of Zucholl DE '408 as WO 00/32864 to Mourad merely discloses controlling a washing program

according to the read information and does not even mention packaging of a dosing device, let alone packaging of a dosing device being configured to provide information concerning the dosing device that can be identified by a (first) part of an identification system. Thus, it is respectfully requested that the rejection of claims 20 and 21 as unpatentable under 35 U.S.C. §103(a) over Zucholl DE 100 39 408 in view of WO 00/32864 to Mourad be withdrawn.

CONCLUSION

In view of the above, entry of the present Amendment and allowance of claims 20 and 21, and consideration and allowance of withdrawn claims 23 – 42, are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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